

## **REMARKS**

By this Response, claims 24 and 25 are cancelled without prejudice. Claims 26-28 are now active for examination.

### **The Office Action**

The Office Action rejects claims 24-27 under 35 U.S.C § 102(b) as being anticipated by Kapolka (U.S. Patent No. 7,092,803). Claim 28 is objected to for depending from a rejected base claim, but the Examiner indicates that claim 28 would be allowable if it is rewritten into independent form.

It is respectfully submitted that the rejections are either overcome or moot, and the objection is addressed, in view of the claim amendments and/or remarks presented herein. Favorable reconsideration of the application is respectfully solicited.

### **The Rejection of Claims 24 and 25 Is Moot**

By this Response, claims 24 and 25 are cancelled without prejudice. Accordingly, the rejection of claims 24 and 25 is moot.

### **The Rejection of Claims 26-28 Is Overcome**

Independent claim 26 relates to using a computer for controlling a plurality of diagnostic instruments. A user interface is provided including (1) an instrument selection listing available ones of the plurality of diagnostic instruments, and (2) an active selection element configured to select for use, by the computer, the data from the corresponding diagnostic instrument. See, for instance, Fig. 10 and related descriptions. The user interface may further include a master mode

element indicating which a specific instrument is entitled to send control commands to other instruments.

On the other hand, although Kapolka generally relates to providing a server and a wireless network for obtaining data from on-board vehicle diagnostic systems, the sections relied on by the Examiner in rejecting claim 26 fail to disclose a user interface that (1) lists available ones of a plurality of instruments and (2) is configured to select for use, by the computer, data from the corresponding instruments, as described in independent claim 26. Since Kapolka fails to disclose every limitation of claim 26, Kapolka cannot support a *prima facie* case of anticipation. Therefore, the anticipation rejection is untenable and should be withdrawn. Favorable reconsideration of claim 26 is respectfully requested.

Claim 27 depends on claim 26 and incorporates every limitation thereof. Accordingly, claim 27 is patentable over Kapolka by virtue of its dependencies. Favorable reconsideration of claim 27 is respectfully requested.

**The Objection to Claim 28 Is Addressed**

Claim 28 depends on claim 26 and is objected to for depending from a rejected base claim. The Examiner indicates that claim 28 would be allowable if it is rewritten into independent form.

As discussed earlier, claim 26 is in condition for allowance. Therefore, it is submitted that claim 28 is also in condition for allowance.

## **CONCLUSION**

Applicants believe that this application is in condition for allowance, and request that the Examiner give the application favorable reconsideration and permit it to issue as a patent. If the Examiner believes that the application can be put in even better condition for allowance, the Examiner is invited to contact Applicants' representatives listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Wei-Chen Nicholas Chen  
Registration No. 56,665

600 13<sup>th</sup> Street, N.W.  
Washington, DC 20005-3096  
Phone: 202.756.8000 WC:pab  
Facsimile: 202.756.8087  
**Date: January 16, 2007**

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as our correspondence address.**

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